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HOUSE BILL 2

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003

INTRODUCED BY

Al Park

AN ACT

RELATING TO SEX OFFENDERS; CREATING A SEX OFFENDER MANAGEMENT BOARD WITHIN THE NEW MEXICO SENTENCING COMMISSION; PROVIDING DUTIES; REVISING THE ELEMENTS OF THE CRIME OF KIDNAPPING; PROVIDING INCREASED PENALTIES FOR CRIMINAL SEXUAL PENETRATION IN THE SECOND OR THIRD DEGREE WHEN THE VICTIM IS A CHILD THIRTEEN TO EIGHTEEN YEARS OF AGE; CREATING A NEW OFFENSE KNOWN AS CRIMINAL SEXUAL CONTACT OF A MINOR IN THE SECOND DEGREE; PROVIDING INCREASED PENALTIES FOR CRIMINAL SEXUAL CONTACT OF A MINOR IN THE THIRD DEGREE; PROVIDING MINIMUM, MANDATORY PENALTIES; PROVIDING THAT A SEX OFFENDER MAY BE PLACED ON PROBATION FOR A PERIOD OF UP TO TWENTY YEARS; ESTABLISHING FACTORS FOR THE DISTRICT COURT TO CONSIDER WHEN DETERMINING THE DURATION, TERMS AND CONDITIONS OF PROBATION; PROVIDING THAT A SEX OFFENDER MAY BE PLACED ON PAROLE FOR A PERIOD OF UP TO TWENTY YEARS; ESTABLISHING FACTORS FOR THE PAROLE BOARD TO

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1       **CONSIDER WHEN DETERMINING THE DURATION, TERMS AND CONDITIONS OF**  
2       **PROBATION; PROVIDING CONFORMING AMENDMENTS TO EXISTING LAWS;**  
3       **AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.**

4  
5       **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

6               Section 1. A new section of Chapter 9, Article 3 NMSA  
7       1978 is enacted to read:

8               "[NEW MATERIAL] **SEX OFFENDER MANAGEMENT BOARD-- CREATION--**  
9       **MEMBERSHIP-- DUTIES. --**

10              A. There is created within the New Mexico  
11       sentencing commission the "sex offender management board".

12              B. The sex offender management board shall be  
13       composed of the following members or their designees:

- 14                               (1) the attorney general;
- 15                               (2) a district attorney appointed by the  
16       district attorneys association of New Mexico;
- 17                               (3) the chief public defender;
- 18                               (4) a district court judge appointed by the  
19       district court judge's association of New Mexico;
- 20                               (5) the secretary of corrections;
- 21                               (6) the secretary of health;
- 22                               (7) the secretary of children, youth and  
23       families;
- 24                               (8) one public member appointed by the  
25       governor who is a representative of a New Mexico victims

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1 organization;

2 (9) two representatives appointed by the  
3 governor who are mental health professionals licensed to  
4 practice in New Mexico. At least one of the mental health  
5 professionals shall be a member of the association for the  
6 treatment of sexual abusers;

7 (10) a representative appointed by the  
8 governor from the adult probation and parole division of the  
9 corrections department who has expertise in the supervision of  
10 sex offenders;

11 (11) a representative appointed by the  
12 governor from the law enforcement community who has expertise  
13 regarding sex offender community notification, registration,  
14 tracking and monitoring;

15 (12) a representative appointed by the  
16 governor who is affiliated with a civil liberties organization;  
17 and

18 (13) a representative appointed by the  
19 governor who is affiliated with a faith-based organization.

20 C. The sex offender management board shall:

21 (1) hold meetings at times and for periods as  
22 the board deems necessary to accomplish its objectives, but  
23 shall meet at least eight times a year;

24 (2) develop and prescribe a standard procedure  
25 for the identification and evaluation of convicted sex

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1 offenders. The procedure shall include behavior management,  
2 monitoring, treatment and program compliance for sex offenders.  
3 The board shall develop and implement measures of success;

4 (3) develop and implement guidelines and  
5 standards for the treatment of sex offenders that can be  
6 utilized by offenders who are placed on probation, incarcerated  
7 with the corrections department, placed on parole or placed in  
8 a community corrections program. The guidelines and standards  
9 shall include a monitoring process and a plan for developing  
10 treatment programs for sex offenders, including determining the  
11 duration, terms and conditions of probation and parole for sex  
12 offenders;

13 (4) create a risk assessment-screening tool  
14 and program to assist sentencing of sex offenders, including  
15 determining the duration, terms and conditions of probation and  
16 parole for sex offenders;

17 (5) develop guidelines and standards for  
18 monitoring sex offenders who are undergoing evaluation or  
19 treatment, including behavioral monitoring;

20 (6) develop criteria for measuring a sex  
21 offender's progress in treatment programs. The parole board  
22 shall use the criteria to determine whether a sex offender may  
23 appropriately be released from incarceration or discharged from  
24 probation or parole;

25 (7) develop a standardized procedure for the

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1 identification and evaluation of juvenile sex offenders. The  
2 procedure shall include behavior management, monitoring,  
3 treatment and program compliance for juvenile sex offenders.

4 The board shall develop and implement measures of success;

5 (8) develop and implement guidelines and  
6 standards for the treatment of juvenile sex offenders who are  
7 placed on probation, committed to a state agency, placed on  
8 parole or placed in a community corrections program;

9 (9) research and analyze safety issues raised  
10 when sex offenders live in a community;

11 (10) study and consider the viability and  
12 legality of a civil commitment program for sex offenders;

13 (11) research and determine the feasibility  
14 and legality of implementing indeterminate sentencing for sex  
15 offenders;

16 (12) study the use of clinical polygraph  
17 testing as a means to evaluate sex offenders;

18 (13) evaluate sex offender treatment programs  
19 administered by state agencies and recommend changes, if  
20 needed, in those treatment programs; and

21 (14) review the provisions of the Sex Offender  
22 Notification and Registration Act and recommend changes, if  
23 needed, to that act.

24 D. The sex offender management board shall report  
25 its findings and recommendations to the New Mexico sentencing

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1 commission on a quarterly basis. The New Mexico sentencing  
2 commission shall vote to approve, disapprove or revise the  
3 recommendations of the board.

4 E. The members of the sex offender management board  
5 shall be paid pursuant to the Per Diem and Mileage Act and  
6 shall receive no other perquisite, compensation or allowance."

7 Section 2. Section 30-4-1 NMSA 1978 (being Laws 1963,  
8 Chapter 303, Section 4-1, as amended) is amended to read:

9 "30-4-1. KIDNAPPING. --

10 A. Kidnapping is the unlawful taking, restraining,  
11 transporting or confining of a person, by force, intimidation  
12 or deception, with intent:

13 (1) that the victim be held for ransom;

14 (2) that the victim be held as a hostage or  
15 shield and confined against his will;

16 (3) that the victim be held to service against  
17 the victim's will; or

18 (4) to inflict death, physical injury or a  
19 sexual offense on the victim.

20 B. Whoever commits kidnapping is guilty of a first  
21 degree felony, except that he is guilty of a second degree  
22 felony when he voluntarily frees the victim in a safe place and  
23 does not inflict great bodily harm upon the victim.

24 C. Notwithstanding the provisions of Subsection B  
25 of this section, whoever commits kidnapping, with the intent to

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1 commit a sexual offense when the victim is a minor, is guilty  
2 of a first degree felony."

3 Section 3. Section 30-9-11 NMSA 1978 (being Laws 1975,  
4 Chapter 109, Section 2, as amended) is amended to read:

5 "30-9-11. CRIMINAL SEXUAL PENETRATION. --

6 A. Criminal sexual penetration is the unlawful and  
7 intentional causing of a person to engage in sexual  
8 intercourse, cunnilingus, fellatio or anal intercourse or the  
9 causing of penetration, to any extent and with any object, of  
10 the genital or anal openings of another, whether or not there  
11 is any emission.

12 B. Criminal sexual penetration does not include  
13 medically indicated procedures.

14 C. Criminal sexual penetration in the first degree  
15 consists of all sexual penetration perpetrated:

- 16 (1) on a child under thirteen years of age; or  
17 (2) by the use of force or coercion that  
18 results in great bodily harm or great mental anguish to the  
19 victim.

20 Whoever commits criminal sexual penetration in the first  
21 degree is guilty of a first degree felony.

22 D. Criminal sexual penetration in the second degree  
23 consists of all criminal sexual penetration perpetrated:

- 24 (1) on a child thirteen to eighteen years of  
25 age when the perpetrator is in a position of authority over the

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1 child and uses this authority to coerce the child to submit;

2 (2) on an inmate confined in a correctional  
3 facility or jail when the perpetrator is in a position of  
4 authority over the inmate;

5 (3) by the use of force or coercion that  
6 results in personal injury to the victim;

7 (4) by the use of force or coercion when the  
8 perpetrator is aided or abetted by one or more persons;

9 (5) in the commission of any other felony; or

10 (6) when the perpetrator is armed with a  
11 deadly weapon.

12 Whoever commits criminal sexual penetration in the second  
13 degree, is guilty of a second degree felony. Whoever commits  
14 criminal sexual penetration in the second degree when the  
15 victim is a child who is thirteen to eighteen years of age is  
16 guilty of a second degree felony for a sexual offense against a  
17 child and, notwithstanding the provisions of Section 31-18-15  
18 NMSA 1978, shall be sentenced to a minimum term of imprisonment  
19 of three years, which shall not be suspended or deferred.

20 E. Criminal sexual penetration in the third degree  
21 consists of all criminal sexual penetration perpetrated through  
22 the use of force or coercion.

23 Whoever commits criminal sexual penetration in the third  
24 degree is guilty of a third degree felony. Whoever commits  
25 criminal sexual penetration in the third degree when the victim

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1 is a child who is thirteen to eighteen years of age is guilty  
2 of a third degree felony for a sexual offense against a child.

3 F. Criminal sexual penetration in the fourth degree  
4 consists of all criminal sexual penetration:

5 (1) not defined in Subsections C through E of  
6 this section perpetrated on a child thirteen to sixteen years  
7 of age when the perpetrator is at least eighteen years of age  
8 and is at least four years older than the child and not the  
9 spouse of that child; or

10 (2) perpetrated on a child thirteen to  
11 eighteen years of age when the perpetrator, who is a licensed  
12 school employee, an unlicensed school employee, a school  
13 contract employee, a school health service provider or a school  
14 volunteer, and who is at least eighteen years of age and is at  
15 least four years older than the child and not the spouse of  
16 that child, learns while performing services in or for a school  
17 that the child is a student in a school.

18 Whoever commits criminal sexual penetration in the fourth  
19 degree is guilty of a fourth degree felony. "

20 Section 4. Section 30-9-13 NMSA 1978 (being Laws 1975,  
21 Chapter 109, Section 4, as amended) is amended to read:

22 "30-9-13. CRIMINAL SEXUAL CONTACT OF A MINOR. --

23 A. Criminal sexual contact of a minor is the  
24 unlawful and intentional touching of or applying force to the  
25 intimate parts of a minor or the unlawful and intentional

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1 causing of a minor to touch one's intimate parts. For the  
2 purposes of this section, "intimate parts" means the primary  
3 genital area, groin, buttocks, anus or breast.

4 B. Criminal sexual contact of a minor in the second  
5 degree consists of all criminal sexual contact of the unclothed  
6 intimate parts of a minor perpetrated:

7 (1) on a child under thirteen years of age; or

8 (2) on a child thirteen to eighteen years of  
9 age when:

10 (a) the perpetrator is in a position of  
11 authority over the child and uses that authority to coerce the  
12 child to submit;

13 (b) the perpetrator uses force or  
14 coercion that results in personal injury to the child;

15 (c) the perpetrator uses force or  
16 coercion and is aided or abetted by one or more persons; or

17 (d) the perpetrator is armed with a  
18 deadly weapon.

19 Whoever commits criminal sexual contact of a minor in the  
20 second degree is guilty of a second degree felony for a sexual  
21 offense against a child and, notwithstanding the provisions of  
22 Section 31-18-15 NMSA 1978, shall be sentenced to a minimum  
23 term of imprisonment of three years, which shall not be  
24 suspended or deferred.

25 [~~A.~~] C. Criminal sexual contact of a minor in the

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1 third degree consists of all criminal sexual contact of a minor  
2 perpetrated:

3 (1) on a child under thirteen years of age; or  
4 (2) on a child thirteen to eighteen years of  
5 age when:

6 (a) the perpetrator is in a position of  
7 authority over the child and uses this authority to coerce the  
8 child to submit;

9 (b) the perpetrator uses force or  
10 coercion which results in personal injury to the child;

11 (c) the perpetrator uses force or  
12 coercion and is aided or abetted by one or more persons; or

13 (d) the perpetrator is armed with a  
14 deadly weapon.

15 Whoever commits criminal sexual contact of a minor in the  
16 third degree is guilty of a third degree felony for a sexual  
17 offense against a child.

18 [~~B-~~] D. Criminal sexual contact of a minor in the  
19 fourth degree consists of all criminal sexual contact:

20 (1) not defined in Subsection [A] C of this  
21 section, of a child thirteen to eighteen years of age  
22 perpetrated with force or coercion; or

23 (2) of a minor perpetrated on a child thirteen  
24 to eighteen years of age when the perpetrator, who is a  
25 licensed school employee, an unlicensed school employee, a

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1 school contract employee, a school health service provider or a  
2 school volunteer, and who is at least eighteen years of age and  
3 is at least four years older than the child and not the spouse  
4 of that child, learns while performing services in or for a  
5 school that the child is a student in a school.

6 Whoever commits criminal sexual contact in the fourth  
7 degree is guilty of a fourth degree felony. "

8 Section 5. Section 31-18-15 NMSA 1978 (being Laws 1977,  
9 Chapter 216, Section 4, as amended) is amended to read:

10 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--  
11 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS  
12 DEDUCTIONS. --

13 A. If a person is convicted of a noncapital felony,  
14 the basic sentence of imprisonment is as follows:

15 (1) for a first degree felony, eighteen years  
16 imprisonment;

17 (2) for a second degree felony resulting in  
18 the death of a human being, fifteen years imprisonment;

19 (3) for a second degree felony for a sexual  
20 offense against a child, fifteen years imprisonment;

21 [~~(3)~~] (4) for a second degree felony, nine  
22 years imprisonment;

23 [~~(4)~~] (5) for a third degree felony resulting  
24 in the death of a human being, six years imprisonment;

25 (6) for a third degree felony for a sexual

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1 offense against a child, six years imprisonment;

2 [~~(5)~~] (7) for a third degree felony, three  
3 years imprisonment; or

4 [~~(6)~~] (8) for a fourth degree felony, eighteen  
5 months imprisonment.

6 B. The appropriate basic sentence of imprisonment  
7 shall be imposed upon a person convicted [~~of a first, second,~~  
8 ~~third or fourth degree felony or a second or third degree~~  
9 ~~felony resulting in the death of a human being~~] and sentenced  
10 pursuant to Subsection A of this section, unless the court  
11 alters [~~such~~] the sentence pursuant to the provisions of  
12 Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978.

13 C. The court shall include in the judgment and  
14 sentence of each person convicted [~~of a first, second, third or~~  
15 ~~fourth degree felony or a second or third degree felony~~  
16 ~~resulting in the death of a human being~~] and sentenced to  
17 imprisonment in a corrections facility designated by the  
18 corrections department authority for a period of parole to be  
19 served in accordance with the provisions of Section 31-21-10  
20 NMSA 1978 after the completion of any actual time of  
21 imprisonment and authority to require, as a condition of  
22 parole, the payment of the costs of parole services and  
23 reimbursement to a law enforcement agency or local crime  
24 stopper program in accordance with the provisions of that  
25 section. The period of parole shall be deemed to be part of

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1 the sentence of the convicted person in addition to the basic  
2 sentence imposed pursuant to Subsection A of this section  
3 together with alterations, if any, pursuant to the provisions  
4 of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA  
5 1978.

6 D. When a court imposes a sentence of imprisonment  
7 pursuant to the provisions of Section 31-18-15.1, 31-18-16,  
8 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the  
9 basic sentence of imprisonment provided pursuant to the  
10 provisions of Subsection A of this section, the period of  
11 parole shall be served in accordance with the provisions of  
12 Section 31-21-10 NMSA 1978 for the degree of felony for the  
13 basic sentence for which the inmate was convicted. For the  
14 purpose of designating a period of parole, a court shall not  
15 consider that the basic sentence of imprisonment was suspended  
16 or deferred and that the inmate served a period of imprisonment  
17 pursuant to the provisions of Section 31-18-15.1, 31-18-16,  
18 31-18-16.1 or 31-18-17 NMSA 1978.

19 E. The court may, in addition to the imposition of  
20 a basic sentence of imprisonment, impose a fine not to exceed:

21 (1) for a first degree felony, fifteen  
22 thousand dollars (\$15,000);

23 (2) for a second degree felony resulting in  
24 the death of a human being, twelve thousand five hundred  
25 dollars (\$12,500);

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1                                    (3) for a second degree felony for a sexual  
2 offense against a child, twelve thousand five hundred dollars  
3 (\$12,500);

4                                    [~~(3)~~] (4) for a second degree felony, ten  
5 thousand dollars (\$10,000);

6                                    [~~(4)~~] (5) for a third degree felony resulting  
7 in the death of a human being, five thousand dollars (\$5,000);  
8 [~~or~~]

9                                    (6) for a third degree felony for a sexual  
10 offense against a child, five thousand dollars (\$5,000); or

11                                    [~~(5)~~] (7) for a third or fourth degree felony,  
12 five thousand dollars (\$5,000).

13                                    F. When the court imposes a sentence of  
14 imprisonment for a felony offense, the court shall indicate  
15 whether or not the offense is a serious violent offense, as  
16 defined in Section 33-2-34 NMSA 1978. The court shall inform  
17 an offender that the offender's sentence of imprisonment is  
18 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37  
19 and 33-2-38 NMSA 1978. If the court fails to inform an  
20 offender that the offender's sentence is subject to those  
21 provisions or if the court provides the offender with erroneous  
22 information regarding those provisions, the failure to inform  
23 or the error shall not provide a basis for a writ of habeas  
24 corpus.

25                                    G. No later than October 31 of each year, the New

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1 Mexico sentencing commission shall provide a written report to  
2 the secretary of corrections, all New Mexico criminal court  
3 judges, the administrative office of the district attorneys and  
4 the chief public defender. The report shall specify the  
5 average reduction in the sentence of imprisonment for serious  
6 violent offenses and nonviolent offenses, as defined in Section  
7 33-2-34 NMSA 1978, due to meritorious deductions earned by  
8 prisoners during the previous fiscal year pursuant to the  
9 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38  
10 NMSA 1978. The corrections department shall allow the  
11 commission access to documents used by the department to  
12 determine earned meritorious deductions for prisoners. "

13 Section 6. Section 31-20-5 NMSA 1978 (being Laws 1963,  
14 Chapter 303, Section 29-17, as amended) is amended to read:

15 "31-20-5. PLACING DEFENDANT ON PROBATION. --

16 A. When a person has been convicted of a crime for  
17 which a sentence of imprisonment is authorized and when the  
18 magistrate, metropolitan or district court has deferred or  
19 suspended sentence, it shall order the defendant to be placed  
20 on probation for all or some portion of the period of deferment  
21 or suspension if the defendant is in need of supervision,  
22 guidance or direction that is feasible for the [~~field services~~  
23 ~~division of the~~] corrections department to furnish [~~provided,~~  
24 ~~however~~]. Except for sex offenders as provided in Section  
25 31-20-5.2 NMSA 1978, the total period of probation for district

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1 court shall not exceed five years and the total period of  
2 probation for the magistrate or metropolitan courts shall be no  
3 longer than the maximum allowable incarceration time for the  
4 offense or as otherwise provided by law.

5 B. If a defendant is required to serve a period of  
6 probation subsequent to a period of incarceration:

7 (1) the period of probation shall be served  
8 subsequent to any required period of parole, with the time  
9 served on parole credited as time served on the period of  
10 probation and the conditions of probation imposed by the court  
11 deemed as additional conditions of parole; and

12 (2) in the event that the defendant violates  
13 any condition of that parole, the parole board shall cause him  
14 to be brought before it pursuant to the provisions of Section  
15 31-21-14 NMSA 1978 and may make any disposition authorized  
16 pursuant to that section and, if parole is revoked, the period  
17 of parole served in the custody of a correctional facility  
18 shall not be credited as time served on probation. "

19 Section 7. A new section, Section 31-20-5.2 NMSA 1978, is  
20 enacted to read:

21 "31-20-5.2. [NEW MATERIAL] SEX OFFENDERS--PERIOD OF  
22 PROBATION--TERMS AND CONDITIONS OF PROBATION. --

23 A. Prior to placing a sex offender on probation,  
24 the district court shall conduct a hearing to determine the  
25 duration, terms and conditions of probation for the sex

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1 offender. A sex offender's initial period of probation shall  
2 be for a period not to exceed twenty years. The district court  
3 may consider any relevant factors, including:

4 (1) the nature and circumstances of the  
5 offense for which the sex offender was convicted or  
6 adjudicated;

7 (2) the nature and circumstances of a prior  
8 sex offense committed by the sex offender;

9 (3) rehabilitation efforts engaged in by the  
10 sex offender, including participation in treatment programs  
11 while incarcerated or elsewhere;

12 (4) the danger to the community posed by the  
13 sex offender; and

14 (5) a risk and needs assessment regarding the  
15 sex offender, prepared by the sex offender management board of  
16 the New Mexico sentencing commission or another appropriate  
17 entity.

18 B. The district court shall review the terms and  
19 conditions of a sex offender's probation at two and one-half  
20 year intervals. During a review hearing, the state shall bear  
21 the burden of proving to the district court that a sex offender  
22 should remain on probation. The district court may decide to  
23 continue a sex offender's probation, but may determine that  
24 certain terms and conditions of probation are no longer  
25 necessary.

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1                   C. The district court may order a sex offender  
2 placed on probation to abide by reasonable terms and conditions  
3 of probation, including:

4                   (1) being subject to intensive supervision by  
5 a probation officer of the corrections department;

6                   (2) participating in an outpatient or  
7 inpatient sex offender treatment program;

8                   (3) a probationary agreement by the sex  
9 offender not to use alcohol or drugs;

10                  (4) a probationary agreement by the sex  
11 offender not to have contact with certain persons or classes of  
12 persons; and

13                  (5) being subject to alcohol testing, drug  
14 testing or polygraph examinations used to determine if the sex  
15 offender is in compliance with the terms and conditions of his  
16 parole.

17                   D. The district court shall notify the sex  
18 offender's counsel of record of an upcoming probation hearing  
19 for a sex offender, and the sex offender's counsel of record  
20 shall represent the sex offender at the probation hearing.

21 When a sex offender's counsel of record provides the court with  
22 good cause that the counsel of record should not represent the  
23 sex offender at the probation hearing and the sex offender is  
24 subsequently unable to obtain counsel, the district court shall  
25 notify the chief public defender of the upcoming probation

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1 hearing and the chief public defender shall make representation  
2 available to the sex offender at that hearing.

3 E. If the district court finds that a sex offender  
4 has violated the terms and conditions of his probation, the  
5 district court may revoke his probation or may order additional  
6 terms and conditions of probation.

7 F. As used in this section, "sex offender" means a  
8 person who is convicted of, pleads guilty to or pleads nolo  
9 contendere to any one of the following offenses:

10 (1) kidnapping, as provided in Subsection C of  
11 Section 30-4-1 NMSA 1978;

12 (2) criminal sexual penetration in the first,  
13 second or third degree, as provided in Section 30-9-11 NMSA  
14 1978;

15 (3) criminal sexual contact of a minor in the  
16 second or third degree, as provided in Section 30-9-13 NMSA  
17 1978; or

18 (4) sexual exploitation of children, as  
19 provided in Section 30-6A-3 NMSA 1978. "

20 Section 8. Section 31-21-10 NMSA 1978 (being Laws 1980,  
21 Chapter 28, Section 1, as amended) is amended to read:

22 "31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

23 A. An inmate of an institution who was sentenced to  
24 life imprisonment as the result of the commission of a capital  
25 felony, who was convicted of three violent felonies and

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1 sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978  
2 or who was convicted of two violent sexual offenses and  
3 sentenced pursuant to Subsection A of Section 31-18-25 NMSA  
4 1978 and Section 31-18-26 NMSA 1978 becomes eligible for a  
5 parole hearing after he has served thirty years of his  
6 sentence. Before ordering the parole of an inmate sentenced to  
7 life imprisonment, the board shall:

8 (1) interview the inmate at the institution  
9 where he is committed;

10 (2) consider all pertinent information  
11 concerning the inmate, including:

12 (a) the circumstances of the offense;

13 (b) mitigating and aggravating  
14 circumstances;

15 (c) whether a deadly weapon was used in  
16 the commission of the offense;

17 (d) whether the inmate is a habitual  
18 offender;

19 (e) the reports filed under Section  
20 31-21-9 NMSA 1978; and

21 (f) the reports of such physical and  
22 mental examinations as have been made while in ~~[prison]~~ an  
23 institution;

24 (3) make a finding that a parole is in the  
25 best interest of society and the inmate; and

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1 (4) make a finding that the inmate is able and  
2 willing to fulfill the obligations of a law-abiding citizen.

3 If parole is denied, the inmate sentenced to life  
4 imprisonment shall again become entitled to a parole hearing at  
5 two-year intervals. The board may, on its own motion, reopen  
6 any case in which a hearing has already been granted and parole  
7 denied.

8 B. Unless the board finds that it is in the best  
9 interest of society and the parolee to reduce the period of  
10 parole, a person who was convicted of a capital felony shall be  
11 required to undergo a minimum period of parole of five years.  
12 During the period of parole, the person shall be under the  
13 guidance and supervision of the board.

14 C. Except for sex offenders as provided in Section  
15 31-21-10.1 NMSA 1978, an inmate who was convicted of a first,  
16 second or third degree felony and who has served the sentence  
17 of imprisonment imposed by the court in [~~a corrections~~  
18 ~~facility~~] an institution designated by the corrections  
19 department shall be required to undergo a two-year period of  
20 parole. An inmate who was convicted of a fourth degree felony  
21 and who has served the sentence of imprisonment imposed by the  
22 court in [~~a corrections facility~~] an institution designated by  
23 the corrections department shall be required to undergo a one-  
24 year period of parole. During the period of parole, the person  
25 shall be under the guidance and supervision of the board.

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1           D. Every person while on parole shall remain in the  
2 legal custody of the institution from which he was released,  
3 but shall be subject to the orders of the board. The board  
4 shall furnish to each inmate as a prerequisite to his release  
5 under its supervision a written statement of the conditions of  
6 parole that shall be accepted and agreed to by the inmate as  
7 evidenced by his signature affixed to a duplicate copy to be  
8 retained in the files of the board. The board shall also  
9 require as a prerequisite to release the submission and  
10 approval of a parole plan. If an inmate refuses to affix his  
11 signature to the written statement of the conditions of his  
12 parole or does not have an approved parole plan, he shall not  
13 be released and shall remain in the custody of the [~~corrections~~  
14 ~~facility~~] institution in which he has served his sentence,  
15 excepting parole, until such time as the period of parole he  
16 was required to serve, less meritorious deductions, if any,  
17 expires, at which time he shall be released from that  
18 [~~facility~~] institution without parole, or until such time that  
19 he evidences his acceptance and agreement to the conditions of  
20 parole as required or receives approval for his parole plan or  
21 both. Time served from the date that an inmate refuses to  
22 accept and agree to the conditions of parole or fails to  
23 receive approval for his parole plan shall reduce the period,  
24 if any, to be served under parole at a later date. If the  
25 district court has ordered that the inmate make restitution to

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1 a victim as provided in Section 31-17-1 NMSA 1978, the board  
2 shall include restitution as a condition of parole. The board  
3 shall also personally apprise the inmate of the conditions of  
4 parole and his duties relating thereto.

5 E. When a person on parole has performed the  
6 obligations of his release for the period of parole provided in  
7 this section, the board shall make a final order of discharge  
8 and issue him a certificate of discharge.

9 F. Pursuant to the provisions of Section 31-18-15  
10 NMSA 1978, the board shall require the inmate as a condition of  
11 parole:

12 (1) to pay the actual costs of his parole  
13 services to the adult probation and parole division of the  
14 corrections department for deposit to the corrections  
15 department intensive supervision fund not exceeding one  
16 thousand twenty dollars (\$1,020) annually to be paid in monthly  
17 installments of not less than fifteen dollars (\$15.00) and not  
18 more than eighty-five dollars (\$85.00), subject to modification  
19 by the adult probation and parole division on the basis of  
20 changed financial circumstances; and

21 (2) to reimburse a law enforcement agency or  
22 local crime stopper program for the amount of any reward paid  
23 by the agency or program for information leading to his arrest,  
24 prosecution or conviction.

25 G. The provisions of this section shall apply to

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1 all inmates except geriatric, permanently incapacitated and  
2 terminally ill inmates eligible for the medical and geriatric  
3 parole program as provided by the Parole Board Act. "

4 Section 9. A new section of the Probation and Parole Act,  
5 Section 31-21-10.1 NMSA 1978, is enacted to read:

6 "31-21-10.1. [NEW MATERIAL] SEX OFFENDERS--PERIOD OF  
7 PAROLE--TERMS AND CONDITIONS OF PAROLE.--

8 A. Prior to the release on parole of a sex  
9 offender, the board shall conduct a hearing to determine the  
10 duration, terms and conditions of parole for the sex offender.  
11 A sex offender's initial period of parole shall be for a period  
12 not to exceed twenty years. The board may consider any  
13 relevant factors, including:

14 (1) the nature and circumstances of the  
15 offense for which the sex offender was incarcerated;

16 (2) the nature and circumstances of a prior  
17 sex offense committed by the sex offender;

18 (3) rehabilitation efforts engaged in by the  
19 sex offender, including participation in treatment programs  
20 while incarcerated or elsewhere;

21 (4) the danger to the community posed by the  
22 sex offender; and

23 (5) a risk and needs assessment regarding the  
24 sex offender, prepared by the sex offender management board of  
25 the New Mexico sentencing commission or another appropriate

1 entity.

2 B. The board shall review the terms and conditions  
3 of a sex offender's parole at two and one-half year intervals.  
4 During a review hearing, the state shall bear the burden of  
5 proving to the board that a sex offender should remain on  
6 parole. The board may decide to continue a sex offender's  
7 parole, but may determine that certain terms and conditions of  
8 parole are no longer necessary.

9 C. The board may order a sex offender released on  
10 parole to abide by reasonable terms and conditions of parole,  
11 including:

12 (1) being subject to intensive supervision by  
13 a parole officer of the corrections department;

14 (2) participating in an outpatient or  
15 inpatient sex offender treatment program;

16 (3) a parole agreement by the sex offender not  
17 to use alcohol or drugs;

18 (4) a parole agreement by the sex offender not  
19 to have contact with certain persons or classes of persons; and

20 (5) being subject to alcohol testing, drug  
21 testing or polygraph examinations used to determine if the sex  
22 offender is in compliance with the terms and conditions of his  
23 parole.

24 D. The board shall notify the chief public defender  
25 of an upcoming parole hearing for a sex offender, and the chief

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1 public defender shall make representation available to the sex  
2 offender at the parole hearing.

3 E. If the board finds that a sex offender has  
4 violated the terms and conditions of his parole, the board may  
5 revoke his parole or may order additional terms and conditions  
6 of parole.

7 F. The provisions of this section shall apply to  
8 all sex offenders, except geriatric, permanently incapacitated  
9 and terminally ill inmates eligible for the medical and  
10 geriatric parole program as provided by the Parole Board Act.

11 G. As used in this section, "sex offender" means a  
12 person who is convicted of, pleads guilty to or pleads nolo  
13 contendere to any one of the following offenses:

14 (1) kidnapping, as provided in Subsection C of  
15 Section 30-4-1 NMSA 1978;

16 (2) criminal sexual penetration in the first,  
17 second or third degree, as provided in Section 30-9-11 NMSA  
18 1978;

19 (3) criminal sexual contact of a minor in the  
20 second or third degree, as provided in Section 30-9-13 NMSA  
21 1978; or

22 (4) sexual exploitation of children, as  
23 provided in Section 30-6A-3 NMSA 1978. "

24 Section 10. Section 29-11A-3 NMSA 1978 (being Laws 1995,  
25 Chapter 106, Section 3, as amended) is amended to read:

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1           "29-11A-3. DEFINITIONS. -- As used in the Sex Offender  
2 Registration and Notification Act:

3           A. "sex offender" means a person eighteen years of  
4 age or older who:

5                       (1) is a resident of New Mexico who is  
6 convicted of a sex offense in New Mexico;

7                       (2) changes his residence to New Mexico, when  
8 that person has been convicted of a sex offense in another  
9 state pursuant to state, federal or military law;

10                      (3) is a resident of New Mexico who is  
11 convicted of a sex offense pursuant to federal or military law;  
12 or

13                      (4) is a resident of another state and who has  
14 been convicted of a sex offense pursuant to state, federal or  
15 military law, but who is:

16                               (a) employed full time or part time in  
17 New Mexico for a period of time exceeding fourteen days or for  
18 an aggregate period of time exceeding thirty days during any  
19 calendar year; or

20                               (b) enrolled on a full-time or part-time  
21 basis in a private or public school in New Mexico, including a  
22 secondary school, a trade school, a professional institution or  
23 an institution of higher education; and

24           B. "sex offense" means:

25                       (1) criminal sexual penetration in the first,

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1 second, third or fourth degree, as provided in Section 30-9-11  
2 NMSA 1978;

3 (2) criminal sexual contact in the fourth  
4 degree, as provided in Section 30-9-12 NMSA 1978;

5 (3) criminal sexual contact of a minor in the  
6 second, third or fourth degree, as provided in Section 30-9-13  
7 NMSA 1978;

8 (4) sexual exploitation of children, as  
9 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA  
10 1978;

11 (5) sexual exploitation of children by  
12 prostitution, as provided in Section 30-6A-4 NMSA 1978;

13 (6) kidnapping, as provided in Section 30-4-1  
14 NMSA 1978 when the victim is less than eighteen years of age  
15 and the offender is not a parent of the victim;

16 (7) false imprisonment, as provided in Section  
17 30-4-3 NMSA 1978, when the victim is less than eighteen years  
18 of age and the offender is not a parent of the victim;

19 (8) solicitation to commit criminal sexual  
20 contact of a minor in the second, third or fourth degree, as  
21 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

22 (9) attempt to commit any of the sex offenses  
23 set forth in Paragraphs (1) through (7) of this subsection, as  
24 provided in Section 30-28-1 NMSA 1978. "

25 Section 11. Section 29-11A-5 NMSA 1978 (being Laws 1995,

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1 Chapter 106, Section 5, as amended) is amended to read:

2 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--  
3 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN  
4 THE NATIONAL SEX OFFENDER REGISTRY-- RULES. --

5 A. A county sheriff shall maintain a local registry  
6 of sex offenders in his jurisdiction required to register  
7 pursuant to the provisions of the Sex Offender Registration and  
8 Notification Act.

9 B. The county sheriff shall forward registration  
10 information obtained from sex offenders to the department of  
11 public safety. The initial registration information and any  
12 new registration information subsequently obtained from a sex  
13 offender shall be forwarded by the county sheriff no later than  
14 ten working days after the information is obtained from a sex  
15 offender. If the department of public safety receives  
16 information regarding a sex offender from a governmental entity  
17 other than a county sheriff, the department shall send that  
18 information to the [county] sheriff for the county in which the  
19 sex offender resides.

20 C. The department of public safety shall maintain a  
21 central registry of sex offenders required to register pursuant  
22 to the provisions of the Sex Offender Registration and  
23 Notification Act. The department shall participate in the  
24 national sex offender registry administered by the United  
25 States department of justice. The department shall send

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1 conviction information and fingerprints for all sex offenders  
2 registered in New Mexico to the national sex offender registry  
3 administered by the United States department of justice and to  
4 the federal bureau of investigation.

5 D. The department of public safety shall retain  
6 registration information regarding sex offenders convicted for  
7 the following sex offenses for a period of twenty years  
8 following the sex offender's conviction, release from prison or  
9 release from probation or parole, whichever occurs later:

10 (1) criminal sexual penetration in the first  
11 or second degree, as provided in Section 30-9-11 NMSA 1978;

12 (2) criminal sexual contact of a minor in the  
13 second or third degree, as provided in Section 30-9-13 NMSA  
14 1978;

15 (3) sexual exploitation of children, as  
16 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA  
17 1978;

18 (4) kidnapping, as provided in Section 30-4-1  
19 NMSA 1978 when the victim is less than eighteen years of age  
20 and the offender is not a parent of the victim; or

21 (5) attempt to commit any of the sex offenses  
22 set forth in Paragraphs (1) through (4) of this subsection, as  
23 provided in Section 30-28-1 NMSA 1978.

24 E. The department of public safety shall retain  
25 registration information regarding sex offenders convicted for

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1 the following offenses for a period of ten years following the  
2 sex offender's conviction, release from prison or release from  
3 probation or parole, whichever occurs later:

4 (1) criminal sexual penetration in the third  
5 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

6 (2) criminal sexual contact in the fourth  
7 degree, as provided in Section 30-9-12 NMSA 1978;

8 (3) criminal sexual contact of a minor in the  
9 fourth degree, as provided in Section 30-9-13 NMSA 1978;

10 (4) sexual exploitation of children by  
11 prostitution, as provided in Section 30-6A-4 NMSA 1978;

12 (5) false imprisonment, as provided in Section  
13 30-4-3 NMSA 1978, when the victim is less than eighteen years  
14 of age and the offender is not a parent of the victim;

15 (6) solicitation to commit criminal sexual  
16 contact of a minor in the second, third or fourth degree, as  
17 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

18 (7) attempt to commit any of the sex offenses  
19 set forth in Paragraphs (1) through (5) of this subsection, as  
20 provided in Section 30-28-1 NMSA 1978.

21 F. The department of public safety shall adopt  
22 rules necessary to carry out the provisions of the Sex Offender  
23 Registration and Notification Act. "

24 Section 12. Section 29-11A-5.1 NMSA 1978 (being Laws  
25 1999, Chapter 19, Section 8, as amended) is amended to read:

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1 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING  
2 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY  
3 NOTIFICATION--INTERNET WEB SITE.--

4 A. If a sex offender is convicted of one of the  
5 following sex offenses, the county sheriff shall forward  
6 registration information obtained from the sex offender to the  
7 district attorney for the judicial district in which the sex  
8 offender resides and, if the sex offender is a resident of a  
9 municipality, the chief law enforcement officer for the  
10 municipality in which the sex offender resides:

11 (1) criminal sexual penetration in the first  
12 or second degree, as provided in Section 30-9-11 NMSA 1978;

13 (2) criminal sexual contact of a minor in the  
14 second, third or fourth degree, as provided in Section 30-9-13  
15 NMSA 1978;

16 (3) sexual exploitation of children, as  
17 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA  
18 1978;

19 (4) sexual exploitation of children by  
20 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

21 (5) attempt to commit any of the sex offenses  
22 set forth in Paragraphs (1) through (4) of this subsection, as  
23 provided in Section 30-28-1 NMSA 1978.

24 B. A person who wants to obtain registration  
25 information regarding sex offenders described in Subsection A

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1 of this section may request that information from the:

2 (1) ~~county~~ sheriff for the county in which  
3 the sex offenders reside;

4 (2) chief law enforcement officer for the  
5 municipality in which the sex offenders reside;

6 (3) district attorney for the judicial  
7 district in which the sex offenders reside; or

8 (4) secretary of public safety.

9 C. Upon receiving a request for registration  
10 information regarding sex offenders described in Subsection A  
11 of this section, the county sheriff, chief municipal law  
12 enforcement officer, district attorney or secretary of public  
13 safety shall provide that registration information, with the  
14 exception of a sex offender's social security number, within a  
15 reasonable period of time, and no later than seven days after  
16 receiving the request.

17 D. Within seven days of receiving registration  
18 information from a sex offender described in Subsection A of  
19 this section, the county sheriff shall contact every licensed  
20 daycare center, elementary school, middle school and high  
21 school within a one-mile radius of the sex offender's residence  
22 and provide them with the sex offender's registration  
23 information, with the exception of the sex offender's social  
24 security number.

25 E. The department of public safety may establish

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1 and manage an internet web site that provides the public with  
2 registration information regarding sex offenders described in  
3 Subsection A of this section. The registration information  
4 provided to the public pursuant to this subsection shall not  
5 include a sex offender's social security number or a sex  
6 offender's place of employment, unless the sex offender's  
7 employment requires him to have direct contact with children. "

8 Section 13. Section 33-2-34 NMSA 1978 (being Laws 1999,  
9 Chapter 238, Section 1) is amended to read:

10 "33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS  
11 DEDUCTIONS. --

12 A. To earn meritorious deductions, a prisoner  
13 confined in a correctional facility designated by the  
14 corrections department must be an active participant in  
15 programs recommended for the prisoner by the classification  
16 committee and approved by the warden. Meritorious deductions  
17 shall not exceed the following amounts:

18 (1) for a prisoner confined for committing a  
19 serious violent offense, up to a maximum of four days per month  
20 of time served;

21 (2) for a prisoner confined for committing a  
22 nonviolent offense, up to a maximum of thirty days per month of  
23 time served;

24 (3) for a prisoner confined following  
25 revocation of parole for the alleged commission of a new felony

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1 offense or for absconding from parole, up to a maximum of four  
2 days per month of time served during the parole term following  
3 revocation; and

4 (4) for a prisoner confined following  
5 revocation of parole for a reason other than the alleged  
6 commission of a new felony offense or absconding from parole,  
7 up to a maximum of eight days per month of time served during  
8 the parole term following revocation.

9 B. A prisoner may earn meritorious deductions upon  
10 recommendation by the classification committee, based upon the  
11 prisoner's active participation in approved programs and the  
12 quality of the prisoner's participation in those approved  
13 programs. A prisoner may not earn meritorious deductions  
14 unless the recommendation of the classification committee is  
15 approved by the warden.

16 C. If a prisoner's active participation in approved  
17 programs is interrupted by a lockdown at a correctional  
18 facility, he may continue to be awarded meritorious deductions  
19 at the rate he was earning meritorious deductions prior to the  
20 lockdown, unless the warden determines that the prisoner's  
21 conduct contributed to the initiation or continuance of the  
22 lockdown.

23 D. A prisoner confined in a correctional facility  
24 designated by the corrections department is eligible for lump-  
25 sum meritorious deductions as follows:

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1 (1) for successfully completing an approved  
2 vocational, substance abuse or mental health program, one  
3 month; except when the prisoner has a demonstrable physical,  
4 mental health or developmental disability that prevents the  
5 prisoner from successfully earning a general education diploma,  
6 in which case the prisoner shall be awarded three months;

7 (2) for earning a general education diploma,  
8 three months;

9 (3) for earning an associate's degree, four  
10 months;

11 (4) for earning a bachelor's degree, five  
12 months;

13 (5) for earning a graduate qualification, five  
14 months; and

15 (6) for engaging in a heroic act of saving  
16 life or property, engaging in extraordinary conduct for the  
17 benefit of the state or the public that is at great expense,  
18 risk or effort on behalf of the inmate, or engaging in  
19 extraordinary conduct far in excess of normal program  
20 assignments that demonstrates the prisoner's commitment to  
21 rehabilitate himself. The classification committee and the  
22 warden may recommend the number of days to be awarded in each  
23 case based upon the particular merits, but any award shall be  
24 determined by the director of the adult institutions division  
25 of the corrections department.

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1           E. Lump-sum meritorious deductions, provided in  
2 Paragraphs (1) through (6) of Subsection D of this section, may  
3 be awarded in addition to the meritorious deductions provided  
4 in Subsections A and B of this section. Lump-sum meritorious  
5 deductions shall not exceed one year per award and shall not  
6 exceed a total of one year for all lump-sum meritorious  
7 deductions awarded in any consecutive twelve-month period.

8           F. A prisoner is not eligible to earn meritorious  
9 deductions if the prisoner:

10                   (1) disobeys an order to perform labor,  
11 pursuant to Section 33-8-4 NMSA 1978;

12                   (2) is in disciplinary segregation;

13                   (3) is within the first sixty days of receipt  
14 by the corrections department; or

15                   (4) is not an active participant in programs  
16 recommended and approved for him by the classification  
17 committee.

18           G. The provisions of this section shall not be  
19 interpreted as providing eligibility to earn meritorious  
20 deductions from a sentence of life imprisonment or a sentence  
21 of death.

22           H. The corrections department shall promulgate  
23 rules to implement the provisions of this section, and the  
24 rules shall be matters of public record. A concise summary of  
25 the rules shall be provided to each prisoner, and each prisoner

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1 shall receive a quarterly statement of the meritorious  
2 deductions earned.

3 I. A New Mexico prisoner confined in a federal or  
4 out-of-state correctional facility is eligible to earn  
5 meritorious deductions for active participation in programs on  
6 the basis of the prisoner's conduct and program reports  
7 furnished by that facility to the corrections department. All  
8 decisions regarding the award and forfeiture of meritorious  
9 deductions at such facility are subject to final approval by  
10 the director of the adult institutions division of the  
11 corrections department or ~~his~~ the director's designee.

12 J. In order to be eligible for meritorious  
13 deductions, a prisoner confined in a federal or out-of-state  
14 correctional facility designated by the corrections department  
15 must actively participate in programs that are available. If a  
16 federal or out-of-state correctional facility does not have  
17 programs available for a prisoner, the prisoner may be awarded  
18 meritorious deductions at the rate the prisoner could have  
19 earned meritorious deductions if the prisoner had actively  
20 participated in programs.

21 K. A prisoner confined in a correctional facility  
22 in New Mexico that is operated by a private company, pursuant  
23 to a contract with the corrections department, is eligible to  
24 earn meritorious deductions in the same manner as a prisoner  
25 confined in state-run correctional facilities. All decisions

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1 regarding the award or forfeiture of meritorious deductions at  
2 such facilities are subject to final approval by the director  
3 of the adult institutions division of the corrections  
4 department or [~~his~~] the director's designee.

5 L. As used in this section:

6 (1) "active participant" means a prisoner who  
7 has begun, and is regularly engaged in, approved programs;

8 (2) "program" means work, vocational,  
9 educational, substance abuse and mental health programs,  
10 approved by the classification committee, that contribute to a  
11 prisoner's self-betterment through the development of personal  
12 and occupational skills. "Program" does not include  
13 recreational activities;

14 (3) "nonviolent offense" means any offense  
15 other than a serious violent offense; and

16 (4) "serious violent offense" means:

17 (a) second degree murder, as provided in  
18 Section 30-2-1 NMSA 1978;

19 (b) voluntary manslaughter, as provided  
20 in Section 30-2-3 NMSA 1978;

21 (c) third degree aggravated battery, as  
22 provided in Section 30-3-5 NMSA 1978;

23 (d) first degree kidnapping, as provided  
24 in Section 30-4-1 NMSA 1978;

25 (e) first and second degree criminal

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1 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

2 (f) second and third degree criminal  
3 sexual contact of a minor, as provided in Section 30-9-13 NMSA  
4 1978;

5 (g) first and second degree robbery, as  
6 provided in Section 30-16-2 NMSA 1978;

7 (h) second degree aggravated arson, as  
8 provided in Section 30-17-6 NMSA 1978;

9 (i) shooting at a dwelling or occupied  
10 building, as provided in Section 30-3-8 NMSA 1978;

11 (j) shooting at or from a motor vehicle,  
12 as provided in Section 30-3-8 NMSA 1978;

13 (k) aggravated battery upon a peace  
14 officer, as provided in Section 30-22-25 NMSA 1978;

15 (l) assault with intent to commit a  
16 violent felony upon a peace officer, as provided in Section  
17 30-22-23 NMSA 1978;

18 (m) aggravated assault upon a peace  
19 officer, as provided in Section 30-22-22 NMSA 1978; and

20 (n) any of the following offenses, when  
21 the nature of the offense and the resulting harm are such that  
22 the court judges the crime to be a serious violent offense for  
23 the purpose of this section: 1) involuntary manslaughter, as  
24 provided in Section 30-2-3 NMSA 1978; 2) fourth degree  
25 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)

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1 third degree assault with intent to commit a violent felony, as  
2 provided in Section 30-3-3 NMSA 1978; 4) third and fourth  
3 degree aggravated stalking, as provided in Section 30-3A-3.1  
4 NMSA 1978; 5) second degree kidnapping, as provided in Section  
5 30-4-1 NMSA 1978; 6) second degree abandonment of a child, as  
6 provided in Section 30-6-1 NMSA 1978; 7) first, second and  
7 third degree abuse of a child, as provided in Section 30-6-1  
8 NMSA 1978; 8) third degree dangerous use of explosives, as  
9 provided in Section 30-7-5 NMSA 1978; 9) third and fourth  
10 degree criminal sexual penetration, as provided in Section  
11 30-9-11 NMSA 1978; 10) fourth degree criminal sexual contact of  
12 a minor, as provided in Section 30-9-13 NMSA 1978; 11) third  
13 degree robbery, as provided in Section 30-16-2 NMSA 1978; 12)  
14 third degree homicide by vehicle or great bodily injury by  
15 vehicle, as provided in Section 66-8-101 NMSA 1978; and 13)  
16 battery upon a peace officer, as provided in Section 30-22-24  
17 NMSA 1978. "

18 Section 14. SEVERABILITY. -- If any part or application of  
19 this act is held invalid, the remainder or its application to  
20 other situations or persons shall not be affected.